

## **CHAPTER 13**

### **AGREEMENTS AND APPROVALS**

#### **13.1 Entity Agreements**

An agreement is required when DDOT and an entity or public agency have a shared interest in a transportation project. The Project Manager should work with the appropriate District authority to determine the parameters of an agreement whenever an entity or public agency needs to:

- Maintain or construct a project affecting the District Highway System.
- Provide funds and need to determine the shared responsibility of funds for such a project.
- Address other interests that require the entity to coordinate with DDOT on such a project.

The following steps for implementing an original entity agreement or an amendment to an entity agreement for a transportation project are performed by the Ward Leader/ Project Manager unless otherwise noted:

- Ensure that the proposed service is consistent with DDOT's procedures.
- Determine unit of responsibilities for the project.
- Review and analyze the request, prepare draft for Memorandum of Agreement (MOA) when a non-government entity is involved and Memorandum of Understanding (MOU) when a government agency is involved, and forward draft to Chief Transportation Engineer's office.
- Review and comment on contract draft (and coordinate with the Chief Transportation Engineer's office).
- Send final draft copies to the entity after approval from the Chief Transportation Engineer's office).
- Revise final draft, if requested and, as appropriate, to address entity concerns and coordinate with the Chief Transportation Engineer's office, and the Department's Attorney.
- Check authorization document to ensure funding commitment and signature authority.
- Route the entity-signed contract copies for execution.
- Distribute executed contract as needed.
- Issue Notice to Proceed to entity.

#### **13.2 Utility Agreements**

If the project requires utility involvement (i.e., the relocation of existing facilities or the installation of new services), the Project Manager must coordinate with the Utility Company's Engineer (this will be required for any work by the utility).

In general, no separate agreement with the utility Company or WASA will be required if the utility pays the entire cost directly to the consultants/contractors for their work. However, the Project Manager must include provisions in the construction contract for the contractor to coordinate the work with the utility Company.

The utility Company or WASA may request the Program Manager/Ward Leader to incorporate their design into the District project for which the utility Company will pay the cost to the District after the bids are opened. If the bid prices are not acceptable to them, they will have an option to withdraw their request and do the proposed work with their own contractor. The Project Manager negotiates an appropriate agreement with the utility and processes that agreement for approval from the Chief Transportation Engineer. The agreement may be an informal document and should be in place prior to advertisement of the project for construction. Copies of the documents are on file with the Project Manager.

### **13.3 Procurement Agreements/Procedures**

The following process is used in “consultant selection”, however verification with the Office of Contracting and Procurement is a must. Generally, they are responsible for reviewing the District’s consultant selection, contracts and contractor bids for compliance with Federal-aid funding requirements. The review process must occur before any of the following takes place:

- A consultant selection is advertised.
- A consultant agreement is executed.
- A contractor bid is awarded.

The steps in this review process are:

- Consultant Selections - Prior to the selection, the Office of the Chief Contracting Officer shall submit the consultant selection procedures and the proposed consultant contract to the Procurement Office, after the Project Manager obtains approval from the Federal Highway Administration for the negotiated fees and agreement documents.
- Contractor Selections - Prior to the award of contract, the Office of the Chief Contracting Officer shall submit its bid procedures, bidder’s cost proposals, and all required documents from the bidders to the Procurement Office for review. Prior to submission to the Procurement Office, the bid results, a financial statement, and all required bid forms, must be reviewed by the Project Manager for concurrence. The Office of the Chief Contracting Officer will submit the documents for approval from FHWA for the federally funded projects before submitting to the Procurement Office.

### **13.3.1 Special Bidding Procedures**

Special bids are generally used only on large projects where the potential for cost savings are substantial enough to justify the additional costs for alternate design and bids. The use of special bids is generally limited to projects where viable alternatives clearly exist and potential cost savings are high. The ability to construct a special bid in a safe and efficient manner should be considered in the selection process.

The major factors for considering special bids are initial costs, maintenance costs, and construction/material considerations. The Contractor will usually bid one of the alternatives based on their ability to construct one option in a more efficient and cost-effective manner.

DDOT may reserve the right to require the Contractor to bid on all options. In most cases, DDOT will select the lowest bid option, however, the lowest bid may not be the sole determination.

When special bids are used, the Project Manager will prepare the design, the estimates, and bid tabulation for each alternative bid option. Documentation supporting the decision to use special designs and bid packages should be finalized and saved in the project file prior to the Final Review.

Special designs should not be produced if the analysis clearly shows only one option to be cost effective.

NOTE: The decision to use special bids should be documented with an initial economic analysis comparing the bid options, maintenance costs and any relevant secondary factors considered.

### **13.3.2 Consultant Selection Process**

The method for obtaining a professional consultant to do a specific scope of work or non-project-specific consultant services shall comply with applicable Federal and district laws governing the services of consultants, as outlined in the DDOT Manual on Consultant Selection.

The Office of the Chief Transportation Engineer is responsible for the pre-qualification and selection of the consultant, and developing a contract between the District and the selected consultant in coordination with the Ward Managers. The Project Manager's performance evaluation of the consultant may affect the selection of the consultants.

The following steps are necessary to obtain an executed consultant contract. The Office of Contract Administration shall perform the steps unless otherwise noted:

- Ensure that the proposed consultant service is consistent with DDOT's Long- Range Plan, District Transportation Improvement Program, the DDOT budget, and the Obligation Plan (Project Manager and Business Office).
- Develop scope of work (Project Manager).
- Prepare a contract cost estimate (Project Manager).
- Prepare consultant selection request, including the Underutilized Disadvantaged Business Enterprise (UDBE) goals, for the Chief Transportation Engineer's approval for advertisement.
- Establish a selection panel (Project Manager).
- Create selection schedule.
- Advertise Invitation for Consultant Services in appropriate newspapers and, as needed, in special journals.
- Create and distribute the selection information and instruction package to the consultant community.
- Coordinate and facilitate selection panels to achieve consensus and make a recommendation to the Chief Transportation Engineer.
- Obtain the Chief Transportation Engineer's approval of the selection results.
- Notify consultants of selection results.
- Finalize scope of work, and for project-specific funds-encumbered contracts, negotiate work-hours and the cost proposal (Project Manager and the consultant representative), and submit those to the Office of Contract Administration.
- Obtain and review the consultant's financial information, insurance information, and initial cost proposal.
- Analyze audit evaluation report and negotiate consultant fee and final contract cost exhibit.
- Prepare final contract and route the contract for approval and signatures.
- Distribute executed contract (Procurement and Business Offices).
- Issue the Notice-to-Proceed to the consultant (Project Manager).
- Debrief consultants, as requested, on selection results.
- Compile selection documentation and transmit the selection file to the DDOT Records Center.

NOTE: For task order contracts, this step is done for each task order request.